

REMARKS:

The Examiner rejected claims 4, 8, 10, and 11 under 35 U.S.C. § 102(b) as being anticipated by McMurtry, U.S. Patent No. 4,301,308 (McMurtry). It is respectfully submitted that claims 4, 8, 10 and 11 are patentable over McMurtry.

Specifically, Claim 10 recites a stylus in which;

- (i) the breaking point is formed by a circumferential notch; and
- (ii) a shrink sleeve covers at least a section of the stem containing the breaking point.

It is respectfully submitted that the structure recited in Claim 10 is not disclosed or suggested by the prior art, including all of the prior art of record in this application.

Considering the prior art, McMurtry (U.S. Patent No. 4,301,308) does not disclose or suggest that the stylus has a breaking point. Even assuming, *arguendo*, that the spigot (24) can serve as a breaking point, as asserted by the Examiner, the “breaking point” of McMurtry would not be formed by a

circumferential notch. The Examiner calls the spigot (24) a “circumferential notch.” However, the office action contains no explanation how the spigot (24) forms a circumferential notch.

Further, the Examiner calls the gaiter (27) a shrink sleeve. A shrink sleeve is a sleeve that is shrinked (is constricted) upon being placed on an effect. A gaiter is not a shrink sleeve. A gaiter is simply a covering.

In summary, applicant respectfully submits that “spigot” is not a “circumferential notch”, and “gaiter” is not a “shrink sleeve.” The long-standing case law generally holds that “no term may be given a meaning repugnant to the usual meaning of the term.” In re Hill, 73 U.S.P.Q. 482 (CCPA 1947)

In view of the above, it is respectfully submitted that McMurtry neither anticipates nor makes obvious the present invention, as defined by claim 10.

Claims 4 and 8 depend on Claim 10 and are allowable for the same reason Claim 10 is allowable and further because of specific features recited

therein which, when taken above and/or in combination with features recited in Claim 10, are not disclosed or suggested in the prior art.

Claim 11 is directed to a coordinate measuring machine in which the stylus of Claim 10 is used, and is allowable for the same reason Claim 10 is allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects, in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully Submitted,

Alexander Zinchuk
Alexander Zinchuk
Reg. No. 30,541

Dated: December 29, 2003
Sidley Austin Brown & Wood LLP
787 Seventh Avenue
New York, N.Y. 10019
Tel.: (212) 839-7365

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail and addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on December 29, 2003.

Alexander Zinchuk